

17-5716 KOONS V. UNITED STATES

DECISION BELOW: 850 F.3d 973

LOWER COURT CASE NUMBER: 15-3794, 15-3825, 15-3854, 15-3800, 15-3894

QUESTION PRESENTED:

(1) Whether the Eighth Circuit Court of Appeals erred in holding, contrary to the opinion of the Fourth Circuit Court of Appeals, that defendants whose initial advisory guideline sentencing range was below a statutory mandatory minimum and who were subsequently sentenced below that minimum after the district court granted a government motion for reduction in sentence for substantial assistance pursuant to 18 U.S.C. § 3553(e), are not eligible for further reduction in sentence under 18 U.S.C. § 3582(c)(2) and retroactive sentencing guideline Amendment 782, which lowered the base offense levels assigned to most drug quantities?

(2) Whether *Freeman v. United States*, 564 U.S. 522 (2011) (plurality opinion) supports the holding that there is a substantive limitation on the term "based on" in 18 U.S.C. § 3582(c)(2) that prohibits defendants whose initial advisory guideline range was below a statutory mandatory minimum, and who were subsequently sentenced below that minimum after the district court granted a government motion for reduction in sentence for substantial assistance pursuant to 18 U.S.C. § 3553(e), from being eligible for further reduction in sentence due to retroactive sentencing guideline Amendment 782?

ORDER OF 1/16/2018: JEFFREY L. FISHER, ESQUIRE, OF STANFORD, CALIFORNIA, IS APPOINTED TO SERVE AS COUNSEL FOR THE PETITIONERS IN THIS CASE.

CERT. GRANTED 12/8/2017